

**MARITAL RAPE - SHOULD IT BE CODIFIED IN THE PENAL
CODE OF MALAYSIA**

By

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Submitted in Partial Fulfilment of the Requirements
for the Bachelor in Legal Studied (Hons)

**Universiti Teknologi MARA
Faculty of Law**

October 2008

The students/ authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

Abstract

This research had one primary objective: to stimulate everyone's conscience in understanding and acknowledging that marital rape is not a myth; but a reality that really occurs in our society. Marital rape has always been seen as propaganda of western human rights movement to indoctrinate our society. However, this research clearly highlights that there are boundaries and limitations that a husband cannot breach to his wife. The sanctity of a marriage must be preserved and not become an excuse for husbands' exploitation over the wife especially in their sexual lifestyles. Force and injury upon the wives for fulfilling lust isn't a moral reflection of our customs and religious values. Hence, this research seeks to identify the genesis of marital rape and how it could be codified into our local laws for increasing effective enforcement in handling such issues.

This is done by looking into three perspectives of marital rape. The local perspective in the Penal Code, the Islamic perspective and the Common Laws' approach to this issue. Based on our arguments, there are specific recommendations made for two main groups i.e. the Muslims and the non-Muslims. The basis of our recommendations for both groups is to perceive the spouses as one entity instead of two entities as prescribed by the Common Law. This is because of the relatively differed grounds of a marriage institution that exists in Malaysia in comparison to The UK. If this basis takes precedence, it would facilitate both the Civil and the Syariah Courts to recognize the offence and protect the victimized wives. Thus, the victimized wife of marital rape or sexual abuse or force could be reduced.

In conclusion, it is hopeful for this research to relate to as many victimized women as possible to take necessary action to protect their rights against their abusive husbands. Namely, resorting to legal advice at NGO's and not hesitating to report to enforcement agencies. Besides that, this research would also hope for members of the legislature to prioritize marital rape in the parliament so an expedient action could be taken to remedy the flaws in our laws to deal with marital rape issues more effectively.

Acknowledgement

Without a doubt, all praise to Allah S.W.T for His blessings over completing our research paper. Without His mercy and grace, none of this could have been possibly achieved.

Our deepest gratitude and appreciation goes to En. Shukri Mohamad Salleh, for his consistent evaluation and guidance in ensuring the direction of this research relates clearly to our subject matter. Besides that, we thank his dedication and his constant compliments that continued to provide us the impetus to complete our research. His unforgettable flair as a gentleman has always provided us the comfort zone to engage in constructive discussions and arguing sessions during consultations. His constant reminder to prepare our drafts, interview scripts and fact finding punctually has never failed to slow us down. In fact, we continued to deliver our work at unbeatable standards that he set. We would like to thank him for his patience and confidence in us.

We would also extend our gratitude to Puan Siti Hafsyah Idris for defending our topic to the selection board during the preliminary stages of preparing our research proposal for this project paper. Without her support and confidence in our topic, we would not have been able to pioneer this sensational issue in spearheading protection for victimized wives of marital rape.

We also deeply appreciate the support from our interviewees, DPP Noorin Badaruddin from the AG Chambers, Pn Mariam Ramli from Sisters in Islam (SIS) and Tuan Hj. Saarani Ismail from the Shah Alam Syariah High Court.

Last but not least, thank you to everyone who has either directly or indirectly contributed to our research: our lecturers, our family members as well as our colleagues for all the support that they had given us throughout the period of completing this research.

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